IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

OP.No. 14086 of 2002(B)

PETITIONER:

THE PLANTATION CORPORATION OF KERALA LTD
KANJIKUZHI KOTTAYAM, REPRESENTED BY ITS
GENERAL MANAGER (F&A), SRI.R.KRISHNAMOORTHY.

BY ADV. SRI.JOSEPH MARKOSE
SRI.THOMAS VELLAPPALLY

RESPONDENTS:
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1. ADDITIONAL COMMISSIONER OF INCOMETAX
(ASSESSMENT), CIRCLE-I, KOTTAYAM.

2. INSPECTING ASSISTANT COMMISSIONER (SPL)
OF AGRICULTURAL INCOME TAX, ERNAKULAM.

3. COMMISSIONER OF INCOME TAX(APPEALS),
COCHIN.

4. THE UNION OF INDIA,
REPRESENTED BY SECRETARY TO REVENUE DEPARTMENT
MINISTRY OF FINACE, NEW DELHI-110 001.

5. THE STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY TO THE GOVERNMENT, TRIVANDRUM.

BY GOVERNMENT PLEADER
SRI.GEORGE K. GEORGE, SC FOR IT FOR R1,3,4
SRI.V.E.ABDUL GAFOOR, ADDL.CGSC FOR R4

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO. 14086/2002

ORDER ON CMP NO.23686/2002 IN O.P.NO. 14086/2002

DISMISSED.

16/11/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF ASSESSMENT ORDER DATED 23/03/1993 OF THE 2ND RESPONDENT.

P2 : COPY OF ORIGINAL ASSESSMENT ORDER DATED 15/01/1992.

P3 : COPY OF INTERIM ORDER DATED 11/10/99 IN CMP 33773/99 IN O.P.NO. 20415/99.

P4 : COPY OF REVISED ASSESSMENT ORDER DATED 18/03/2002 OF 1ST RESPONDENT.

P5 : COPY OF DEMAND NOTICE DATED 18/03/2002 ISSUED BY 1ST RESPONDENT.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 14086 of 2002

Dated, this the 16th day of November, 2007

J U D G M E N T

Petitioner is challenging assessment made under the Income Tax Act 1961 in respect of income from centrifuging of rubber latex for the year 1989-90. The same income was assessed under the AIT Act. It is only pursuant to judgment of this Court, Central Income Tax authority started assessing income from centrifuging of rubber latex treating the same as an industrial activity. However, later, Rule was introduced bifurcating income from centrifuging for assessment under AIT Act and IT Act and the respondents have to assess the income accordingly. In so far as the assessment prior to the amendment of the Rules is concerned, a circular was issued by the Central Board in 2001, wherein assessees who have filed AIT returns and paid tax on centrifuged latex are excluded. Petitioner's case is that petitioner is a State Government undertaking which was filing returns and remitting tax to the AIT department. In this case, petitioner has clearly stated in the original petition that they have paid AIT on the full income from the centrifuged latex, after claiming eligible deductions under the AIT Act. This original petition is, therefore, allowed quashing the impugned notice and orders

issued by the IT Authorities proposing assessment of income from centrifuging of rubber latex. However, respondents can proceed with the assessment of other income under Income Tax Act, 1961.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg